

1 her to disparate working conditions and denying her the opportunity to work in an employment
2 setting free of unlawful harassment.

3 43. Defendant has discriminated against Plaintiff on the basis of her race/color in
4 violation of Section 1981 by creating, fostering, accepting, ratifying and/or otherwise failing to
5 prevent or to remedy a hostile work environment that included, among other things, severe and
6 pervasive harassment of Plaintiff because of her race/color.

7 44. As a direct and proximate result of Defendant's unlawful and discriminatory
8 conduct in violation of Section 1981, Plaintiff has suffered and continues to suffer severe mental
9 anguish and emotional distress, including but not limited to depression, humiliation,
10 embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and
11 suffering, as well as physical injury, for which she is entitled to an award of monetary damages
12 and other relief.

13 45. Defendant's unlawful and discriminatory conduct in violation of Section 1981 was
14 outrageous and malicious, was intended to injure Plaintiff, and was done with conscious
15 disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

16 SECOND CAUSE OF ACTION

17 (Retaliation in Violation of Section 1981)

18 46. Plaintiff hereby repeats and realleges each and every allegation in paragraphs 1
19 through 45, inclusive, as if fully set forth herein.

20 47. Defendant has retaliated against Plaintiff in violation of Section 1981 for
21 opposing and/or complaining of Defendant's discriminatory practices against herself and other
22 employees at Defendant by, inter alia, subjecting Plaintiff to acts of discrimination, harassment
23 and humiliation, withdrawing an agreed upon accommodation for Plaintiff's disabilities,
24 transferring Plaintiff to an overnight shift, and encouraging and/or coercing Plaintiff's co-workers
25 to falsely contradict Plaintiff's truthful allegations of discrimination, harassment and/or
26 retaliation.

27 48. As a direct and proximate result of Defendant's unlawful and retaliatory conduct
28 in violation of Section 1981, Plaintiff has suffered and continues to suffer severe mental anguish

1 and emotional distress, including but not limited to depression, humiliation, embarrassment,
2 stress and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, as well
3 as physical injury, for which she is entitled to an award of monetary damages and other relief.

4 49. Defendant's unlawful and retaliatory conduct in violation of Section 1981 was
5 outrageous and malicious, was intended to injure Plaintiff, and was done with conscious
6 disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

7 **THIRD CAUSE OF ACTION**

8 **(Discrimination and Harassment in Violation of Title VII)**

9 50. Plaintiff hereby repeats and realleges each and every allegation in paragraphs 1
10 through 49, inclusive, as if fully set forth herein.

11 51. Defendant has discriminated against Plaintiff on the basis of her race/color
12 (Black) and/or national origin (Guyanese) in violation of Title VII by denying her the same terms
13 and conditions of employment available to employees who are not Black and/or Guyanese,
14 including but not limited to, subjecting her to disparate working conditions and denying her the
15 opportunity to work in an employment setting free of unlawful harassment.

16 52. Defendant has discriminated against Plaintiff on the basis of her race/color and/or
17 national origin in violation of Title VII by creating, fostering, accepting, ratifying and/or
18 otherwise failing to prevent or to remedy a hostile work environment that included, among other
19 things, severe and pervasive harassment of Plaintiff because of her race/color and/or national
20 origin.

21 53. As a direct and proximate result of Defendant's unlawful and discriminatory
22 conduct in violation of Title VII, Plaintiff has suffered and continue to suffer severe mental
23 anguish and emotional distress, including but not limited to depression, humiliation,
24 embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and
25 suffering, as well as physical injury, for which she is entitled to an award of monetary damages
26 and other relief.

1 54. Defendant's unlawful and discriminatory conduct in violation of Title VII was
2 outrageous and malicious, was intended to injure Plaintiff, and was done with conscious
3 disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

4 **FOURTH CAUSE OF ACTION**

5 **(Retaliation in Violation of Title VII)**

6 55. Plaintiff hereby repeats and realleges each and every allegation in paragraphs 1
7 through 54, inclusive, as if fully set forth herein.

8 56. Defendant has retaliated against Plaintiff in violation of Title VII for opposing
9 and/or complaining of Defendant's discriminatory practices against herself and other employees
10 at Defendant by, inter alia, subjecting Plaintiff to acts of discrimination, harassment and
11 humiliation, withdrawing an agreed upon accommodation for Plaintiff's disabilities, transferring
12 Plaintiff to an overnight shift, and encouraging and/or coercing Plaintiff's co-workers to falsely
13 contradict Plaintiff's truthful allegations of discrimination, harassment and/or retaliation.

14 57. As a direct and proximate result of Defendant's unlawful and retaliatory conduct
15 in violation of Title VII, Plaintiff has suffered and continue to suffer severe mental anguish and
16 emotional distress, including but not limited to depression, humiliation, embarrassment, stress
17 and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, as well as
18 physical injury, for which she is entitled to an award of monetary damages and other relief.

19 58. Defendant's unlawful and retaliatory conduct in violation of Title VII was
20 outrageous and malicious, was intended to injure Plaintiff, and was done with conscious
21 disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

22 **FIFTH CAUSE OF ACTION**

23 **(Violation of Duty of Reasonable Accommodation Under ADA)**

24 59. Plaintiff hereby repeats and realleges each and every allegation in paragraphs 1
25 through 58, inclusive, as if fully set forth herein.

26 60. Defendant violated its duty under the ADA to provide Plaintiff with a reasonable
27 accommodation for her disabilities (Knee replacement) when it denied Plaintiff's request for the
28 reasonable accommodation identified by Plaintiff's treating physicians (modified work duties),

1 failed and refused to engage in discussion with Plaintiff regarding her need for an
 2 accommodation, and/or failed and refused to engage in discussion with Plaintiff regarding the
 3 potential provision of alternative accommodations after repeatedly denying Plaintiff's request for
 4 the accommodation identified by Plaintiff's treating physicians.

5 61. As a direct and proximate result of Defendant's violation of its duty of reasonable
 6 accommodation under the ADA, Plaintiff has suffered and continues to suffer harm for which she
 7 is entitled to an award of damages.

8 62. Defendant's unlawful conduct constitutes a knowing, malicious, willful and
 9 wanton violation of the ADA for which Plaintiff is entitled to an award of punitive damages.

10 **SIXTH CAUSE OF ACTION**

11 **(Discrimination and Harassment in Violation of FEHA)**

12 63. Plaintiff hereby repeats and realleges each and every allegation in paragraphs 1
 13 through 62, inclusive, as if fully set forth herein.

14 64. Defendant has discriminated against Plaintiff on the basis of her race/color
 15 (Black), national origin (Guyanese) and/or disabilities (knee replacement) in violation of the
 16 FEHA by denying her the same terms and conditions of employment available to employees who
 17 are not Black, Guyanese and/or disabled, including but not limited to, subjecting her to disparate
 18 working conditions and denying her the opportunity to work in an employment setting free of
 19 unlawful harassment.

20 65. Defendant has discriminated against Plaintiff on the basis of her race/color and/or
 21 national origin in violation of the FEHA by creating, fostering, accepting, ratifying and/or
 22 otherwise failing to prevent or to remedy a hostile work environment that included, among other
 23 things, severe and pervasive harassment of Plaintiff because of her race/color, national origin
 24 and/or disabilities.

25 66. As a direct and proximate result of Defendant's unlawful and discriminatory
 26 conduct in violation of the FEHA, Plaintiff has suffered and continue to suffer severe mental
 27 anguish and emotional distress, including but not limited to depression, humiliation,
 28 embarrassment, stress and anxiety, loss of self-esteem and self-confidence, emotional pain and

1 suffering, as well as physical injury, for which she is entitled to an award of monetary damages
2 and other relief.

3 **SEVENTH CAUSE OF ACTION**

4 **(Retaliation in Violation of the FEHA)**

5 67. Plaintiff hereby repeats and realleges each and every allegation in paragraphs 1
6 through 66, inclusive, as if fully set forth herein.

7 68. Defendant has retaliated against Plaintiff in violation of FEHA for opposing
8 and/or complaining of Defendant's discriminatory practices against herself and other employees
9 at Defendant by, inter alia, subjecting Plaintiff to acts of discrimination, harassment and
10 humiliation, withdrawing an agreed upon accommodation for Plaintiff's disabilities, transferring
11 Plaintiff to an overnight shift, and encouraging and/or coercing Plaintiff's co-workers to falsely
12 contradict Plaintiff's truthful allegations of discrimination, harassment and/or retaliation.

13 69. As a direct and proximate result of Defendant's unlawful and retaliatory conduct
14 in violation of FEHA, Plaintiff has suffered and continue to suffer severe mental anguish and
15 emotional distress, including but not limited to depression, humiliation, embarrassment, stress
16 and anxiety, loss of self-esteem and self-confidence, emotional pain and suffering, as well as
17 physical injury, for which she is entitled to an award of monetary damages and other relief.

18 **EIGHTH CAUSE OF ACTION**

19 **(Violation of Duty of Reasonable Accommodation Under FEHA)**

20 70. Plaintiff hereby repeats and realleges each and every allegation in paragraphs 1
21 through 69, inclusive, as if fully set forth herein.

22 71. Defendant violated its duty under FEHA to provide Plaintiff with a reasonable
23 accommodation for her disabilities (knee replacement) when it denied Plaintiff's request for the
24 reasonable accommodation identified by Plaintiff's treating physicians (modified work duties),
25 failed and refused to engage in discussion with Plaintiff regarding her need for an
26 accommodation, and/or failed and refused to engage in discussion with Plaintiff regarding the
27 potential provision of alternative accommodations after repeatedly denying Plaintiff's request for
28 the accommodation identified by Plaintiff's treating physicians.

72. As a direct and proximate result of Defendant's violation of its duty of reasonable accommodation under the FEHA, Plaintiff has suffered and continues to suffer harm for which she is entitled to an award of damages.

NINTH CAUSE OF ACTION

(Negligent Hiring, Retention and Supervision)

73. Plaintiff hereby repeats and realleges each and every allegation in paragraphs 1 through 72, inclusive, as if fully set forth herein.

74. Defendant has violated its duty as Plaintiff's employer to provide a safe workplace, to take reasonable steps to determine the fitness of Plaintiff's co-workers and supervisors and to reasonably supervise Plaintiff's co-workers and supervisors by, inter alia, failing and refusing to investigate and/or take appropriate disciplinary or other action in response to Plaintiff's repeated verbal and written complaints of discriminatory and harassing conduct by her co-workers and/or supervisors on the basis of her race/color, national origin and/or disabilities.

75. As a direct and proximate result of Defendant's breach of duty to supervise, Plaintiff has been injured and has incurred damages thereby.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter judgment in her favor and against Defendant, containing the following relief:

A. A declaratory judgment that the actions, conduct and practices of Defendant complained of herein violate the laws of the United States and the State of California;

B. An injunction and order permanently restraining Defendant from engaging in such unlawful conduct;

C. An order directing Defendant to place Plaintiff in the position she would have occupied but for Defendant's discriminatory and harassing treatment and otherwise unlawful conduct, as well as to take such affirmative action as is necessary to ensure that the effects of

1 these unlawful employment practices are eliminated and do not continue to affect his
2 employment and personal life;

3 D. An award of damages in an amount to be determined at trial, plus prejudgment
4 interest, to compensate Plaintiff for all monetary and/or economic harm;

5 E. An award of damages in an amount to be determined at trial, plus prejudgment
6 interest, to compensate Plaintiff for harm to her professional and personal reputations and loss of
7 career fulfillment;

8 F. An award of damages in an amount to be determined at trial, plus prejudgment
9 interest, to compensate Plaintiff for all non-monetary and/or compensatory harm, including but
10 not limited to, compensation for her mental anguish, humiliation, embarrassment, stress and
11 anxiety, emotional pain and suffering, emotional distress and physical injuries;

12 G. An award of damages for any and all other monetary and/or non-monetary losses
13 suffered by Plaintiff in an amount to be determined at trial, plus prejudgment interest;

14 H. An award of punitive damages;

15 I. An award of costs that Plaintiff has incurred in this action, as well as Plaintiff's
16 reasonable attorneys' fees to the fullest extent permitted by law; and

17 J. Such other and further relief as the Court may deem just and proper.

18 **JURY DEMAND**

19
20 Plaintiff hereby demands a trial by jury on all issues of fact and damages stated herein.

21 Respectfully submitted,

22
23 Dated

August 25, 2014



24 GODFREY J. TENCER
25 Attorney for Plaintiff
26 CICILY BRANCH
27
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